

November 20, 2003

Karl Dreher, Director  
Department of Water Resources  
1301 N Orchard St.  
Boise, ID 83706

The preliminary mitigation plan, as proposed by "the districts" is not adequate.

There has been a spiral downward of the aquifer. In the 70's, 80's and 90's more pumpers and domestic wells have been drilled. This year has continued to confirm the downward spiral of water levels. Water levels have dropped 15 to 50 plus feet. Mother nature has been unable to compete with all the demand of the users in the Snake River Plains Aquifer. Until that happens drastic measures need to be taken.

I propose a minimum of 300,000 acre feet of replacement water. I do not recommend that any pumpers water be shut off. I do recommend you begin curtailing the water rights of ground water users (pumpers), beginning with the most recent or junior rights, and reducing these rights by 50% (irrigated acres). This will allow the Idaho Water Department to follow the Idaho Water Rights based on date. Curtailing of these users will continue until surface water (senior) rights are met.

I propose that the Lower Snake River Aquifer Recharge District be expanded.

Tourism has become a major factor in the Magic Valley. Without water flowing out of the springs, the scenic by pass won't have much to offer. Our Magic Valley economy is dependent on a healthy aquifer.



John W. (Bill) Jones, Jr.

cc: (the districts)  
Michael C. Creamer  
Givens Pursley LLP  
601 West Bannock St.  
PO Box 2720  
Boise, ID 83701-2720

ROBERT L. HARNEY  
17910 U S Hwy 30  
Hagerman, ID 83332  
(208) 837-9152

RECEIVED

NOV 24 2003

Department of Water Resources  
Southern Region

BEFORE THE DIRECTOR OF THE IDAHO DEPARTMENT OF  
WATER RESOURCES

IN THE MATTER OF THE	)	
APPLICATION OF NORTH SNAKE	)	
GROUND WATER DISTRICT AND	)	PROTEST
MAGIC VALLEY GROUND) WATER	)	
DISTRICT FOR APPROVAL OF A	)	
PRELIMINARY MITIGATION PLAN	)	

COMES NOW the undersigned individual and/or entity and hereby protests the "Application for Approval of the Preliminary Mitigation Plan" submitted by the North Snake Ground Water District and the Magic Valley Ground Water District. This Protest is filed pursuant to the Idaho Department of Water Resources Notice of Application for Approval of Preliminary Mitigation Plan. The protestant is the owner and/or representative organization of water rights which are hydrologically connected to and dependent on the Eastern Snake Plain Aquifer which water rights will be impacted by the approval or disapproval by the Director of the application. The protestant believes the issues raised by the respective protests filed in the above-entitled action by Clear Lakes Trout Company et al, Clear Springs Foods, Inc. and Rangen, Inc. are appropriate and the same as for this protestant and the protestant further reserves the right to raise additional issues, arguments, protests and objections at any appropriate time during the course of this administrative proceeding.

DATED this 24th day of November, 2003.

SO 26282  
MB  
11/24/03

PROTEST IN OPPOSITION TO APPLICATION OF  
PRELIMINARY MITIGATION PLAN OF NORTH SNAKE  
GROUND WATER DISTRICT AND MAGIC VALLEY GROUND  
WATER DISTRICT

PRINT NAME

Robert L. Harney

SIGNATURE

Robert L. Harney

DATE

11-20-03

COMPANY NAME (if applicable) \_\_\_\_\_

\_\_\_\_\_

### CERTIFICATE OF SERVICE

I hereby certify (swear or affirm) that I have this 24<sup>th</sup> day of November, 2003, served the foregoing Protest upon all parties of record in this proceeding, by delivering a copy thereof in person: by mailing a copy thereof, properly addressed with postage prepaid to:

Michael C. Creamer  
GIVENS PURSLEY, LLP  
P. O. Box 2720  
Boise, ID 83701

Karl Dreher, Director  
Idaho Department of Water Resources  
1301 N. Orchard St.  
Boise, ID 83706

North Snake Ground Water District  
Attention: Mike Faulkner  
152 East Main St.  
Jerome, ID 83338

Magic Valley Ground Water District  
Attention: John Stevenson and  
Orlo Maughn  
433 W 900 N  
Rupert, ID 83350

  
J. DEE MAY

RECEIVED

NOV 24 2003

Department of Water Resources  
Southern Region

BOB R. HUNT  
947 Justice Grade  
Hagerman, ID 83332  
(208) 837-4046

BEFORE THE DIRECTOR OF THE IDAHO DEPARTMENT OF  
WATER RESOURCES

IN THE MATTER OF THE	)	
APPLICATION OF NORTH SNAKE	)	PROTEST
GROUND WATER DISTRICT AND	)	
MAGIC VALLEY GROUND) WATER	)	
DISTRICT FOR APPROVAL OF A	)	
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DATED this 24th day of November, 2003.

502625/  
MB  
11/24/03

PROTEST IN OPPOSITION TO APPLICATION OF  
PRELIMINARY MITIGATION PLAN OF NORTH SNAKE  
GROUND WATER DISTRICT AND MAGIC VALLEY GROUND  
WATER DISTRICT

PRINT NAME

Bob R Hunt

SIGNATURE

Bob R Hunt

DATE

11/19/03

COMPANY NAME (if applicable)

\_\_\_\_\_

### CERTIFICATE OF SERVICE

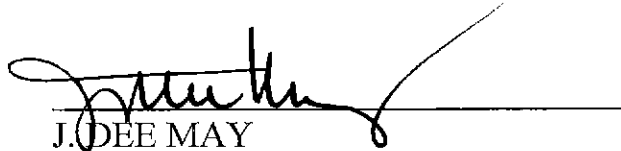
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Rupert, ID 83350

  
J. DEE MAY

RECEIVED

NOV 24 2003

Department of Water Resources  
Southern Region

IDAHO AQUACULTURE ASSOCIATION  
LINDA L. LEMMON  
P. O. Box 767  
Hagerman, ID 83332  
(208) 733-7180

BEFORE THE DIRECTOR OF THE IDAHO DEPARTMENT OF  
WATER RESOURCES

IN THE MATTER OF THE )  
APPLICATION OF NORTH SNAKE ) PROTEST  
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MAGIC VALLEY GROUND) WATER )  
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DATED this 24th day of November, 2003.

50 26286  
MB  
11/24/03



PROTEST IN OPPOSITION TO APPLICATION OF  
PRELIMINARY MITIGATION PLAN OF NORTH SNAKE  
GROUND WATER DISTRICT AND MAGIC VALLEY GROUND  
WATER DISTRICT

PRINT NAME

LINDA L. LEMMON

SIGNATURE

Linda L. Lemmon

DATE

11-20-03

COMPANY NAME (if applicable)

Idaho Aquaculture Assoc. Inc.  
PO Box 767, Hagerman, ID 83832

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Boise, ID 83706

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Orlo Maughn  
433 W 900 N  
Rupert, ID 83350

  
\_\_\_\_\_  
J. DEE MAY

JOY A. KINYON  
1100 Fair  
Buhl, ID 83316  
(208) 543-2548

RECEIVED  
NOV 24 2003  
Department of Water Resources  
Southern Region

BEFORE THE DIRECTOR OF THE IDAHO DEPARTMENT OF  
WATER RESOURCES

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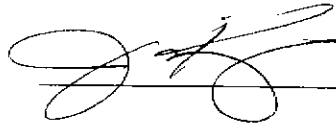
5026243  
MB  
11/24/03

PROTEST IN OPPOSITION TO APPLICATION OF  
PRELIMINARY MITIGATION PLAN OF NORTH SNAKE  
GROUND WATER DISTRICT AND MAGIC VALLEY GROUND  
WATER DISTRICT

PRINT NAME

J. A. Kingon

SIGNATURE



DATE

11/19/03

COMPANY NAME (if applicable)

\_\_\_\_\_

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1301 N. Orchard St.  
Boise, ID 83706

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Attention: Mike Faulkner  
152 East Main St.  
Jerome, ID 83338

Magic Valley Ground Water District  
Attention: John Stevenson and  
Orlo Maughn  
433 W 900 N  
Rupert, ID 83350

  
J. DEE MAY

CRAIG LAUGHLIN  
P. O. Box 1846  
Twin Falls, ID 83303-1846  
(208) 733-7180

RECEIVED

NOV 24 2003

Department of Water Resources  
Southern Region

BEFORE THE DIRECTOR OF THE IDAHO DEPARTMENT OF  
WATER RESOURCES

IN THE MATTER OF THE	)	
APPLICATION OF NORTH SNAKE	)	PROTEST
GROUND WATER DISTRICT AND	)	
MAGIC VALLEY GROUND) WATER	)	
DISTRICT FOR APPROVAL OF A	)	
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DATED this 24th day of November, 2003.

50 26260  
MB  
11/24/03

PROTEST IN OPPOSITION TO APPLICATION OF  
PRELIMINARY MITIGATION PLAN OF NORTH SNAKE  
GROUND WATER DISTRICT AND MAGIC VALLEY GROUND  
WATER DISTRICT

PRINT NAME

Craig Laughtin

SIGNATURE

Craig Laughtin

DATE

11-19-03

COMPANY NAME (if applicable)

\_\_\_\_\_

\_\_\_\_\_

### CERTIFICATE OF SERVICE

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1301 N. Orchard St.  
Boise, ID 83706

North Snake Ground Water District  
Attention: Mike Faulkner  
152 East Main St.  
Jerome, ID 83338

Magic Valley Ground Water District  
Attention: John Stevenson and  
Orlo Maughn  
433 W 900 N  
Rupert, ID 83350

  
\_\_\_\_\_  
J. DEE MAY



LEE PONDS  
DAN LEE  
P. O. Box 1846  
Twin Falls, ID 83303-1846  
(208) 733-7180

RECEIVED

NOV 24 2003

Department of Water Resources  
Southern Region

BEFORE THE DIRECTOR OF THE IDAHO DEPARTMENT OF  
WATER RESOURCES

IN THE MATTER OF THE	)	
APPLICATION OF NORTH SNAKE	)	PROTEST
GROUND WATER DISTRICT AND	)	
MAGIC VALLEY GROUND) WATER	)	
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DATED this 24th day of November, 2003.

5026281  
MB  
11/24/03

PROTEST IN OPPOSITION TO APPLICATION OF  
PRELIMINARY MITIGATION PLAN OF NORTH SNAKE  
GROUND WATER DISTRICT AND MAGIC VALLEY GROUND  
WATER DISTRICT

PRINT NAME DAN LEE

SIGNATURE 

DATE Nov 20, 2003

COMPANY NAME (if applicable) \_\_\_\_\_

LEE PONDS

### CERTIFICATE OF SERVICE

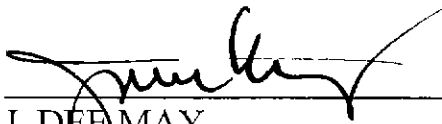
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Idaho Department of Water Resources  
1301 N. Orchard St.  
Boise, ID 83706

North Snake Ground Water District  
Attention: Mike Faulkner  
152 East Main St.  
Jerome, ID 83338

Magic Valley Ground Water District  
Attention: John Stevenson and  
Orlo Maughn  
433 W 900 N  
Rupert, ID 83350

  
\_\_\_\_\_  
J. DEE MAY

KIM LEMMON  
2757 S 1050 East  
Hagerman, ID 83332  
(208) 837-4448

RECEIVED

NOV 24 2003

Department of Water Resources  
Southern Region

BEFORE THE DIRECTOR OF THE IDAHO DEPARTMENT OF  
WATER RESOURCES

IN THE MATTER OF THE	)	
APPLICATION OF NORTH SNAKE	)	PROTEST
GROUND WATER DISTRICT AND	)	
MAGIC VALLEY GROUND) WATER	)	
DISTRICT FOR APPROVAL OF A	)	
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DATED this 24th day of November, 2003.

5026285  
MB  
11/24/03

PROTEST IN OPPOSITION TO APPLICATION OF  
PRELIMINARY MITIGATION PLAN OF NORTH SNAKE  
GROUND WATER DISTRICT AND MAGIC VALLEY GROUND  
WATER DISTRICT

PRINT NAME

Kim Lemmon

SIGNATURE

Kim Lemmon

DATE

11-21-03

COMPANY NAME (if applicable)

\_\_\_\_\_

# **CERTIFICATE OF SERVICE**

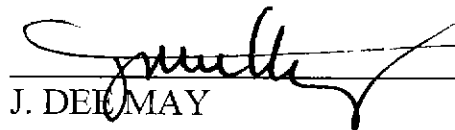
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Karl Dreher, Director  
Idaho Department of Water Resources  
1301 N. Orchard St.  
Boise, ID 83706

North Snake Ground Water District  
Attention: Mike Faulkner  
152 East Main St.  
Jerome, ID 83338

Magic Valley Ground Water District  
Attention: John Stevenson and  
Orlo Maughn  
433 W 900 N  
Rupert, ID 83350

  
J. DEMAY

RECEIVED

NOV 24 2003

Department of Water Resources  
Southern Region

RAIDA LOVELAND  
P. O. Box 1846  
Twin Falls, ID 83303-1846  
(208) 733-7180

BEFORE THE DIRECTOR OF THE IDAHO DEPARTMENT OF  
WATER RESOURCES

IN THE MATTER OF THE	)	
APPLICATION OF NORTH SNAKE	)	
GROUND WATER DISTRICT AND	)	PROTEST
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5026253  
MB  
11/24/03

PROTEST IN OPPOSITION TO APPLICATION OF  
PRELIMINARY MITIGATION PLAN OF NORTH SNAKE  
GROUND WATER DISTRICT AND MAGIC VALLEY GROUND  
WATER DISTRICT

PRINT NAME Raida Loveland

SIGNATURE Raida Loveland

DATE Nov. 19, 2003

COMPANY NAME (if applicable) \_\_\_\_\_

\_\_\_\_\_



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Magic Valley Ground Water District  
Attention: John Stevenson and  
Orlo Maughn  
433 W 900 N  
Rupert, ID 83350



J. DEE MAY

RECEIVED

NOV 24 2003

Department of Water Resources  
Southern Region

LYNCLIF FARMS  
CLIFTON E. JENSEN  
17825-A U S Hwy 30  
Bliss, ID 83314  
(208) 837-6179

BEFORE THE DIRECTOR OF THE IDAHO DEPARTMENT OF  
WATER RESOURCES

IN THE MATTER OF THE )  
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GROUND WATER DISTRICT AND )  
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DATED this 24th day of November, 2003.

5026241  
MB  
11/24/03

PROTEST IN OPPOSITION TO APPLICATION OF  
PRELIMINARY MITIGATION PLAN OF NORTH SNAKE  
GROUND WATER DISTRICT AND MAGIC VALLEY GROUND  
WATER DISTRICT

PRINT NAME

Clifton E. JENSEN

SIGNATURE

Clifton Jensen

DATE

11-20-03

COMPANY NAME (if applicable)

DBA Lyncliff Farms

\_\_\_\_\_

### CERTIFICATE OF SERVICE

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433 W 900 N  
Rupert, ID 83350

  
J. DEE MAY

LAYNE OSBORNE  
966-A Justice Grade  
Hagerman, ID 83332  
(208) 837-6332

RECEIVED

NOV 24 2003

Department of Water Resources  
Southern Region

BEFORE THE DIRECTOR OF THE IDAHO DEPARTMENT OF  
WATER RESOURCES

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5026255  
MB  
11/24/03

PROTEST IN OPPOSITION TO APPLICATION OF  
PRELIMINARY MITIGATION PLAN OF NORTH SNAKE  
GROUND WATER DISTRICT AND MAGIC VALLEY GROUND  
WATER DISTRICT

PRINT NAME Layne Osborne

SIGNATURE Layne Osborne

DATE 11/19/03

COMPANY NAME (if applicable) \_\_\_\_\_

\_\_\_\_\_

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Attention: John Stevenson and  
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Rupert, ID 83350

  
J. DEE MAY

RECEIVED

NOV 24 2003

Department of Water Resources  
Southern Region

J. DEE MAY, ISB #1766  
MAY, SUDWEEKS & BROWNING, LLP  
516 2<sup>nd</sup> Street East, P. O. Box 1846  
Twin Falls, Idaho 83303-1846  
Telephone: (208) 733-7180  
Facsimile: (208) 733-7967  
Attorneys for Rangen, Inc.

BEFORE THE DEPARTMENT OF WATER RESOURCES OF  
THE STATE OF IDAHO

IN THE MATTER OF THE APPLICATION )	
OF NORTH SNAKE GROUND WATER )	
DISTRICT AND MAGIC VALLEY )	PROTEST
GROUND WATER DISTRICT FOR )	
APPROVAL OF A PRELIMINARY )	
MITIGATION PLAN )	
_____ )	

COMES NOW, Rangen, Inc. ("Rangen"), by and through its attorneys, May, Sudweeks & Browning, LLP and hereby protests the "Application for Approval of Preliminary Mitigation Plan" ("Application") submitted by the North Snake River Ground Water District and the Magic valley Ground Water District (collectively referred to as "Districts"). This Protest is filed pursuant to the Idaho Department of Water Resources ("IDWR") Notice of Application of Application for Preliminary Mitigation Plan.

The protestant's address is P. O. Box 706, Buhl, Idaho, 83316. The protestant owns and operates a fish hatchery and aquaculture research center and owns the following water rights which are used for fish propagation: Water Right No. 36-15501; Water Right No. 36-2551; and Water Right No. 36-7694.

Rangen's water rights as set out above are hydrologically connected to and entirely dependent upon the Eastern Snake Plain Aquifer ("ESPA"). Ground water pumping from the ESPA by

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members of the Districts reduces the supply of water at Curren Tunnel and closely located springs which are the headworks for each of the above referenced water rights. As a result, during 2003 and prior years water supplies have been inadequate and have not come close to filling protestant's rights, which rights are senior to many and perhaps the majority of the water rights held by the District's members. On September 23, 2003, the protestant submitted demands on IDWR to administer water rights that divert water from the ESPA pursuant to Idaho Code § 42-607 in order to supply protestant's prior and senior rights. The Director has not as yet reached a decision on Rangen's call, however, on October 10, 2003, the Director issued an Order denying a similar call to Clear Lakes Hatchery, FDC Hatchery, Rim View Hatchery and the hatchery at White Springs owned by and collectively hereafter referred to as the "Hardy's". Because of that denial the Hardy's filed a lawsuit in Ada County District Court against the Director and IDWR for a Writ of Mandate and Declaratory Judgment. Rangen is in the process of moving to intervene in that Ada County litigation. The Hardy's also filed a Petition with IDWR to review issues pertaining to the Order that are not resolved in the District Court litigation. Rangen is also in the process of moving to intervene in that contested case. The following are among the issues Rangen intends to raise during this proceeding among others:

1. The Conjunctive Management rules which have been applied to Petitioners' demands for delivery of water are unconstitutional on their face, and as applied to Petitioners' demands.
2. The Director's conclusions that reductions in the supply of water available to Rim View are "due to seasonal variations in spring discharge that have not been attributed to ground water diversions and use under junior priority rights," and that there is

currently "adequate water available to fill" Rim View's water right no. 36-07167 are erroneous.

3. The Director's conclusion that there is "'an approved and effectively operating mitigation plan' under Rule 42.02 of the Conjunctive Management Rules" is erroneous.
4. The Director's conclusion that the Hardy Estate is bound by a Stipulated Agreement to which it was not a party is erroneous.
5. The Application does not meet the standard for approval of Mitigation Plans, i.e. "no injury to other existing water rights".
6. The Application is based upon speculation and conjecture and does not provide the amount of water reasonably expected under an application of the prior appropriation doctrine. Mitigation Plans which are based upon speculation and conjecture and do not contain a reasonable degree of certainty do not allow the senior water right holder, i.e. Rangen, enough definiteness to be able to properly plan and provide sufficient data to allow them to plan for the year round use of the water; especially when taking into consideration the life cycle of the fish being grown and marketed by Rangen.
7. Adequate Mitigation Plans should compensate for all losses within the hydrologic system and not strictly the losses to the region of the Thousand Springs area.
8. Mitigation is not meant to incorporate natural hydrologic conditions and changes as a result of natural recharge, precipitation or lack thereof, etc. The application tries to

take such natural conditions into effect and such plan should not consider natural hydrologic conditions.

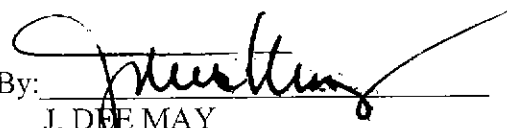
9. The application should be denied in that it tries to take into consideration changes in irrigation patterns and delivery systems and their recharge or lack thereof to the aquifer. It is Rangen's argument that such Application must stand on its own to mitigate for the effects of the District's especially since the Districts were the ones that voluntarily proceeded to change such irrigation patterns and distribution systems and have pocketed the economic benefits of those changes.

The herein referenced issues, objections, protests and arguments are not meant to be exclusive and Rangen hereby reserves the right to raise additional issues, arguments, protests and objections at any appropriate time during the course of this administrative proceeding.

Rangen further requests that IDWR stay further proceedings on the application until Rangen's anticipated administrative and judicial actions are resolved and/or Rangen has reached an agreement with the Districts regarding any proposed Mitigation Plan.

Dated this 24th day of November, 2003.

MAY, SUDWEEKS & BROWNING, LLP

By:   
J. DEE MAY  
Attorneys for Petitioner

## CERTIFICATE OF SERVICE

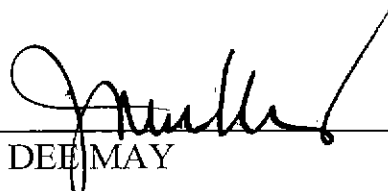
I hereby certify (swear or affirm) that I have this 24<sup>th</sup> day of November, 2003, served the foregoing Protest upon all parties of record in this proceeding, by delivering a copy thereof in person: by mailing a copy thereof, properly addressed with postage prepaid to:

Michael C. Creamer  
GIVENS PURSLEY, LLP  
P. O. Box 2720  
Boise, ID 83701

Karl Dreher, Director  
Idaho Department of Water Resources  
1301 N. Orchard St.  
Boise, ID 83706

North Snake Ground Water District  
Attention: Mike Faulkner  
152 East Main St.  
Jerome, ID 83338

Magic Valley Ground Water District  
Attention: John Stevenson and  
Orlo Maughn  
433 W 900 N  
Rupert, ID 83350

  
\_\_\_\_\_  
J. DEE MAY

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Department of Water Resources  
Southern Region

THORLEIF RANGEN  
3157 Laurelwood Dr.  
Twin Falls, ID 83301  
(208) 734-8714

BEFORE THE DIRECTOR OF THE IDAHO DEPARTMENT OF  
WATER RESOURCES

IN THE MATTER OF THE	)	
APPLICATION OF NORTH SNAKE	)	PROTEST
GROUND WATER DISTRICT AND	)	
MAGIC VALLEY GROUND) WATER	)	
DISTRICT FOR APPROVAL OF A	)	
PRELIMINARY MITIGATION PLAN	)	

COMES NOW the undersigned individual and/or entity and hereby protests the "Application for Approval of the Preliminary Mitigation Plan" submitted by the North Snake Ground Water District and the Magic Valley Ground Water District. This Protest is filed pursuant to the Idaho Department of Water Resources Notice of Application for Approval of Preliminary Mitigation Plan. The protestant is the owner and/or representative organization of water rights which are hydrologically connected to and dependent on the Eastern Snake Plain Aquifer which water rights will be impacted by the approval or disapproval by the Director of the application. The protestant believes the issues raised by the respective protests filed in the above-entitled action by Clear Lakes Trout Company et al, Clear Springs Foods, Inc. and Rangen, Inc. are appropriate and the same as for this protestant and the protestant further reserves the right to raise additional issues, arguments, protests and objections at any appropriate time during the course of this administrative proceeding.

DATED this 24th day of November, 2003.

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PROTEST IN OPPOSITION TO APPLICATION OF  
PRELIMINARY MITIGATION PLAN OF NORTH SNAKE  
GROUND WATER DISTRICT AND MAGIC VALLEY GROUND  
WATER DISTRICT

PRINT NAME

THORLEIF RANGER

SIGNATURE

Thorleif Ranger

DATE

11/19/2003

COMPANY NAME (if applicable) \_\_\_\_\_

\_\_\_\_\_

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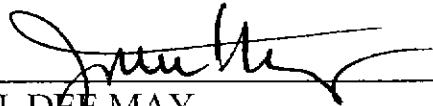
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433 W 900 N  
Rupert, ID 83350

  
\_\_\_\_\_  
J. DEE MAY

B. J. ROWLAND  
2771 S 850 East  
Hagerman, ID 83332  
(208) 837-5491

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Department of Water Resources  
Southern Region

BEFORE THE DIRECTOR OF THE IDAHO DEPARTMENT OF  
WATER RESOURCES

IN THE MATTER OF THE	)	
APPLICATION OF NORTH SNAKE	)	PROTEST
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DATED this 24th day of November, 2003.

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PROTEST IN OPPOSITION TO APPLICATION OF  
PRELIMINARY MITIGATION PLAN OF NORTH SNAKE  
GROUND WATER DISTRICT AND MAGIC VALLEY GROUND  
WATER DISTRICT

PRINT NAME

*Mr. J. Rowland*  
B. J. ROWLAND

SIGNATURE

B. J. Rowland

DATE

11-20-03

COMPANY NAME (if applicable) \_\_\_\_\_

\_\_\_\_\_

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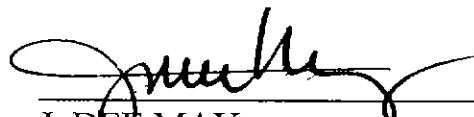
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